

REMARKS

Claims 112, 113, and 115-136 were pending in the application. Claims 112-113, 115-134, and 136 have been cancelled. New claims 137-157, which correspond to cancelled claims 113 and 115-134, are added. New claims 137-157 depend from claim 135, which the Examiner has deemed allowable.

After entry of this Amendment, Applicants submit that claims 135 and 137-157 will be pending and are in condition for allowance.

I. Informalities

The Brief Description of the Drawings has been amended so that appropriate SEQ ID NO identifiers are included for Figures 1A and 1C.

In addition, a replacement Figure 1A is filed concurrently herewith to include residues 251-300, which were inadvertently omitted from the figure. This missing line of residue was present in U.S. Provisional Application 60/288,402, filed May 3, 2001, which is incorporated by reference in the instant application. Thus, Applicants submit that no new matter is included with the filing of replacement Figure 1A.

Applicants respectfully submit that the instant application is in compliance with the sequences rules.

II. Allowable Subject Matter

The Office Action states that claim 135 is allowable and that claims 113 and 115-134 would be allowable if rewritten to change the claim dependency. New claims 137-157 correspond to cancelled claims 113 and 115-134. Applicants thank the Examiner for noting allowable subject matter.

III. Rejection Under 35 U.S.C. § 102(b)

Claims 112 and 136 were rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Hillier *et al.* (1997b, Accession No. AA416577.1) (“Hillier 1997b”). Applicants respectfully traverse this rejection.

Claims 112 and 136 have been cancelled, leaving claim 135 as the only independent claim. Instant claim 135, which the Examiner has deemed allowable, recites:

135. An isolated nucleic acid comprising:
(a) a nucleotide sequence encoding a CatSper1 protein comprising SEQ ID NO: 2; or
(b) the nucleotide sequence complementary to the nucleotide sequence of (a).

Because Hillier 1997b only discloses residues 1959 to 2343 of instant SEQ ID NO: 1, it does not anticipate claim 135. Claims 137-156, which depend from claim 135, are not anticipated by Hillier 1997b for at least the same reason. Thus, Applicants respectfully request reconsideration and withdrawal of this § 102 rejection.

CONCLUSION

In view of the amendments and arguments presented herein, Applicants believe the pending application is in condition for allowance.

If the Examiner believes that a telephonic interview would expedite the prosecution of the application, the Examiner is invited to telephone the undersigned to discuss any remaining issues.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 08-0219, under Order No. 0110313.00135US3, from which the undersigned is authorized to draw.

Respectfully submitted,

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